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NOTE

From: The Irish delegation
To: Delegations

No. prev. doc.: 13259/11

Subject: EU-Japan Mutual Legal Assistance Agreement
- Fact-sheet on the practical conduct of MLA procedures

Delegations will find attached information provided by the Irish delegation on the practical conduct of mutual legal assistance procedures under the EU-Japan Mutual Legal Assistance Agreement¹ in Ireland.

¹ OJ, L 39, 12.2.2010, p. 20

**Execution of a request, under the EU-Japan Mutual Legal
Assistance Agreement, in Ireland**

Practical information

PRELIMINARY REMARKS

1. This information sheet relates only to the execution by Ireland of mutual legal assistance requests under the EU-Japan Mutual Legal Assistance Agreement.
2. For any information about mutual legal assistance requests issued by the competent authorities of Ireland, it is possible to contact the Irish Central Authority.
3. This fact-sheet may be subject to amendment and can be updated at any time.

PRACTICAL DETAILS

1. Central authority or authorities designated in accordance with Article 4 of the EU-Japan MLA agreement, in view of the execution of a MLA request in (name of the State to be inserted) (see also Annex I of the agreement):

(If different authorities have been designated please specify for which purpose each of them may be contacted)

The Minister for Justice and Equality

Criminal Mutual Assistance & Extradition Division

51 St Stephen's Green

Dublin 2

Ireland:

- Contact details of the central authority / authorities:

Address:

Telefon (353) (1) 602 8202

Telefax (353) (1) 661 5461

E-mail (if any): mutual@justice.ie

Languages that may be used for communication: English or Irish

2. Languages in which MLA requests should be forwarded to the competent authority of Ireland, according to Article 9 of the EU-Japan MLA agreement (see also Annex III of the agreement):

Requests for assistance and the relevant documents should be sent accompanied by translation:

- in all cases: into English or Irish
- in urgent cases: into English or Irish.

3. Procedures for forwarding request for assistance to the competent authority of Ireland

Please indicate what specific procedures, if any, will be requested by the competent authorities of your State for forwarding MLA request.

Requested should be posted or, in urgent cases, faxed or emailed.

Please indicate whether your authorities will need any confirmation in written when, in urgent cases, the request has been sent by any other means, including fax or e-mail, pursuant to Paragraph 2 of Article 8 of the EU-Japan MLA agreement.

Where a request has been faxed etc., a hard copy should follow.

4. Certification

Please indicate whether in order to ensure admissibility of records or documents your State will require any specific requirement under the certification procedure Article 10, paragraph 6 of the EU-Japan MLA agreement. Please specify.

No particular certification required.

5. List of possible actions sought

Regarding to Paragraph k) of Article 3 of the EU-Japan MLA agreement, please indicate, if any forms of assistance other than those listed under Paragraphs a)-j) of Article 3 of the EU-Japan MLA agreement is permitted under your national law.

Japanese authorities can contact the Irish central authority on a case by case basis to see what further assistance may be available.

6. Double criminality requirement, if applicable

Please indicate whether your State intends to make use of the first part of Paragraph 2 of Article 11 of the EU-Japan MLA agreement.

Double criminality required for all coercive measures.

7. Confidentiality or limitation of use of evidence obtained

Please indicate whether your State intends to make use of Paragraph 2 of Article 13 of the EU-Japan MLA agreement in accordance with your national law, either on a case-by-case basis, or in general.

Yes.

If so, please indicate, as far as possible, under which conditions the use of the information collected may be authorised.

Evidence may only be used for the purpose for which it was requested. If evidence is to be used for any other criminal investigation/proceedings, the Irish central authority must be contacted.

8. Any extra information on specific type of request(s):

Hearing by video-conference:

Please indicate whether any particular requirements, either legal or technical, other than those listed in Paragraph 2 of Article 16, are necessary under the domestic legislation of your State in order to execute a request for hearing by video-conference (e.g time limit for the reception of such a request).

Please indicate any practical suggestions that may help to execute such a request.

Ireland requires a minimum of 12 weeks notice prior to the date of the video conferencing hearing.

Taking testimony or statements

Please indicate the requirements under your domestic legislation for testimony or statements gathered under Article 15 of the EU-Japan MLA agreement to be considered admissible evidence, e.g. do you require the statement to be taken under oath or under a penalty of criminal punishment for false statement, to be admissible evidence.

Evidence should be sworn or given on oath.

In the case of requests made to Ireland, a statement of evidence will be taken by police officers where the person consents unless there is a specific requirement to compel the witness to appear before a judge.

Obtaining items

Regarding "the information justifying such (coercive) measures under the laws of the requested State" stated under Article 17 of the EU-Japan MLA agreement, please elaborate on such information, including any limitation with respect to the authority which the cooperation request originated.

Requests for search and seizure require dual criminality and it is a matter for the court, on application, to decide whether to issue a production order/search warrant etc. Accordingly, sufficient information must be provided to satisfy the court that the issue of a warrant etc is justified.

Bank Accounts

Please indicate whether any particular requirements exist under your domestic legislation in order to obtain records, documents or reports of bank accounts under Article 18 of the EU-Japan MLA agreement, as well as any practical suggestion that may help to execute such a request.

Also indicate any applicable conditions as referred in Art.18(4) which may limit the execution of the request to obtain the bank record.

No particular requirement as such but requesting authority should be aware that there is no central register of bank accounts held in Ireland.

9. Other particularly relevant information (such as national legislation, national guides on procedure, links to national websites...):

A guide to Irish MLA procedures is available on www.justice.ie.